

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

D. - Remarks

Rejection of Claims 1-12, 14 and 16 Under 35 U.S.C. §103(a) based on *Baratz et al.* (U.S. Patent No. 5,742,596) in view of *Berger et al.* (U.S. Patent No. 6,196,846).

5 The rejection of claims 1-5 and 11-12 will first be addressed.

The invention of claim 1 is directed to a voice and data network that includes a) a telephone and a computer connected to a voice and data module (VDM) device. The telephone and computer having unique assigned network addresses with respect to one another. Also included is a plurality of said VDM devices connected to a plurality of telephone wires in a building. The plurality of telephone wires is connected together to provide a telephone network in which only one phone can communicate on a given line at one time. A link to wide area network (LTW) connects said telephone network to a Public Service Telephone Network (PSTN) and an Internet Service Provider (ISP). The LTW and plurality of said VDM devices communicate together over said telephone network using communication addresses assigned to said LTW and each VDM device.

As is well established, to establish a prima facie case of obviousness, a rejection must meet three basic criteria. First, there must be some suggestion or motivation to modify a reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all claim limitations.

20 It is well settled that rejections which combine references must show some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art.

The rejection rationale relies on the following reasoning to combine *Baratz et al.* in view of *Berger et al.*:

25 It would have been obvious... to use the teachings from *Berger*... to the telephone and computer of *Baratz*. The motivation is... so that there is a redundant capability. (Office Action, dated 09/09/05, Page 4, Lines 1-7).

30 This motivation (providing redundant capability) is not from either reference. Applicant can find no mention of redundancy in either reference (a word search of redund\$, where \$ indicates a wild card value, yields no results). If the Examiner is taking official notice with respect to such

teachings, Applicant seasonably traverses this statement and requests the citation of references in support.

Thus, absent any reference provided to support a taking of official notice, the necessary motivation for a prima facie case of obviousness has not been presented, and a prima facie case of obviousness is not believed to have been established.

In addition, Applicant believes that the references actually teach away from combination. In particular, *Baratz et al.* is directed to a single network for integrating voice and data while *Berger et al.* teaches two separate networks: a voice network and a data network.

Baratz et al. (the reference being modified) notes that separate voice and data networks are disadvantageous:

Most companies maintain two separate networks: a voice telephone network and a data network... Another disadvantage of traditional PBX equipment is that voice and data by default must be kept separate, with voice traffic on one set of cables and data traffic on another set. (*Baratz et al.*, Col. 1, Lines 30-35).

Baratz et al. then indicates that integrated voice and data networks have advantages:

Several advantages exists to integrating voice and data networks. An integrated voice and data network requires the installation and maintenance of only one infrastructure. In addition, an integrated network can provide more advanced functionality. An open system has the potential to provide a highly integrated voice/data network that is easily upgraded or reconfigured. (*Baratz et al.*, Col. 1, Lines 43-49).

Finally *Baratz et al.* indicates that the disclosed invention is directed to an integrated system:

It is an object of the present invention to provide an improved network based PBX system that *integrates voice and data traffic within a single network infrastructure*. (*Baratz et al.*, Col. 1, Lines 65-68, emphasis added).

In very sharp contrast, *Berger et al.* (the reference being used to modify *Baratz et al.*) teaches separate voice and data networks:

FIG. 1 illustrates a communications system 10 that includes a customer workstation 12 coupled to an agent workstation 14 by a *data network 16 and a voice network 18.* (*Berger et al.*, Col. 3, Lines 15-17).

Thus, an artisan skilled in the art, when viewing the teachings of *Baratz et al.* would not look to *Berger et al.*, which employs separate voice and data networks, as such an arrangement is indicated as disadvantageous by *Baratz et al.*

For this additional reason, the necessary motivation for combining *Baratz et al.* in view of *Berger et al.* is believed to be lacking.

For all of these reasons, this ground for rejection is traversed.

Claims depending from claim 1 are believed to be separately patentable over the cited reference.

Claim 3, which depends from claim 1, recites that an LTW and VDM devices communicate over said network of telephone wires by means of Token in Ethernet Protocol technology. Token in Ethernet Protocol is a particular protocol set forth in U.S. Patent 6,751,213. No such protocol is shown or suggested in the cited references. Accordingly, such a limitation is not believed to be shown by the combination of references.

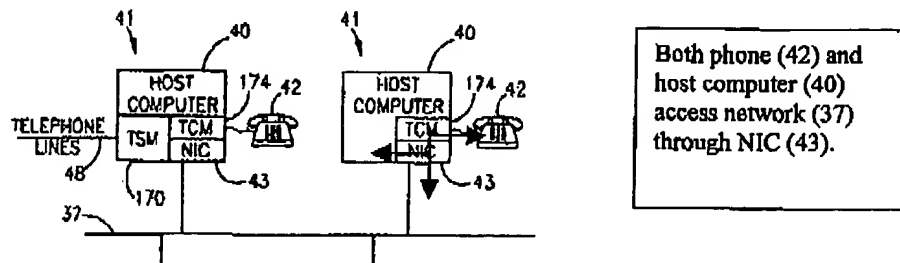
Claim 11, which depends from claim 1, recites that the voice and data network is organized into at least two VDM locations. Each VDM location includes a VDM device having a first network address, a first connection for a device that is assigned a second network address, and a second connection for a device that is assigned a third network address. The first, second and third network addresses are different from one another.

The rejection cites *Baratz et al.* to show such limitations:

Baratz discloses... each host computer has a voice and data module with a computer and phone connected thereto... the devices in the network communicate using the Ethernet protocol and thus have unique addresses since Ethernet requires it... (Office Action, dated 02/24/05, Page 4, Lines 1-7).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant must respectfully disagree with this reading of the reference. Applicant has previously noted that in *Baratz et al.* phones are connected to the network through host computers by way of network interface cards (NICs).



Consequently, in *Baratz et al.*, the phones do not have separate network addresses. Phones have extensions, but such extensions are related to the NIC address, as noted in the reference.

The physical extension numbers are directly related to the *unique network address of the host computer 40 that telephone set 42 is connected to*. In a similar manner telephones connected to a remote subscriber interface module are assigned unique physical address. (*Baratz et al.*, Col. 6, Lines 20-24)

Thus, in *Baratz et al.* a telephone has the same network address as its host computer, which would seem to be the opposite of Applicant's claim 11.

Accordingly, because the rejection appears to rely on an incorrect evaluation of the reference, the rejection cannot show all the limitations of claim 11, and the claim is separately patentable.

The rejection of claims 6-10, 14 16 will now be addressed.

The invention of claim 6 is directed to a method for communicating between network elements in a voice and data network. The method includes (a) monitoring a communication network by a first voice and data module (VDM) for a call from a second VDM and a call from a link to a wide area network (LTW) connected to said communication network, (b) monitoring a first phone and a first computer attached to said first VDM for an outgoing call to a destination containing a second phone and a second computer connected to said second VDM, or an outside phone and an outside computer network through said LTW. The first phone has a first

identification (ID) value and first computer has a second ID value different from the first ID value.

The method also includes (c) detecting an outgoing call to a destination phone and connecting the call if the destination phone is not busy, else providing a busy signal and
5 disconnecting said outgoing call. Connecting the call includes, if the destination phone is picked up, converting voice signals to a packet with an ID value as a source address, the ID value being the first ID value if the outgoing call originates from the first phone and being the second ID value if the outgoing call originates from the first computer.

The method further includes (d) detecting an incoming call and connecting said call if a
10 receiving device comprising said first phone and said first computer is not busy, else sending back said busy signal and disconnecting said incoming call, and (e) disconnecting phone calls or computer calls when a phone hang up or a computer disconnect signal is detected and returning to monitoring said network for said incoming call.

As understood from the above underlined portions of Applicant's claim 6, the invention
15 of claim 6 includes particular limitations related to ID values, and conversion of voice signals to packets with particular ID values.

The above emphasized limitations were not addressed by the rejection, and thus a prima facie case is not believed to have been established. While the rejection has argued that steps a) and b) of the claimed invention are shown in *Baratz et al.*,¹ no mention is made of an "ID value
20 being the first ID value if the outgoing call originates from the first phone and being the second ID value if the outgoing call originates from the first computer", as recited in claim 6.

Applicant has assumed that the rejection is arguing that the combination of *Baratz et al.* in view of *Berger et al.* shows the above emphasized limitations by relying on the teachings of *Berger et al.* *Berger et al.* teaches a session request (20) that includes a network address (76) and
25 an extension (80). However, these values are never shown to be different according to origin of the packet. Instead, such values have associations that are never described as changing according to origin:

Session request 20 includes... a network address 76 *associated with customer workstation 12*, ... extension 80 *associated with voice instrument 32, such as a telephone extension.* (*Berger et al.*, Col. 5, Lines 18-22).

¹ See the Office Action, dated 09/09/2005, Page 6.

For this reason, all the limitations shown in the claim are not believed to be shown or suggested by the cited reference, and a prima face case of obviousness is not believed to have been established.

5 In addition, or alternatively, to the extent that the rejection relies on the combination of *Baratz et al.* in view of *Berger et al.*, the comments set forth above for claim 1 are incorporated by reference herein. In particular, the necessary motivation for the proposed combination is not believed to have been established.

10 Claims depending from claim 6 are believed to be separately patentable over the cited combination of references.

Claim 8, which depends from claim 6, recites that communicating between computers takes place according to Token in Ethernet protocol eliminating the need for any conversion.

To address this ground for rejection, Applicant incorporates by reference herein the comments set forth for claim 2. More particularly, the rejection has argued the reference
15 provides teachings directed to Ethernet protocol, not Token in Ethernet protocol, as recited in claim 8.

Claim 16, which depends from claim 6, recites that step d) further includes the LTW requesting an outside call to provide extension data for an incoming call, and if an extension number is not received, storing a predefined port address as a destination address in request for
20 connection packet.

The rejection rationale for this claim is set forth below:

Baratz et al. does not disclose that if an extension is not received using a predetermined port address as the destination. However, it would have been obvious... to implement
25 this feature in Baratz because doing so will allow the call to still take place rather than dropping the call because the extension is unknown, thus making Baratz more reliable.

Note: this becomes even more important for emergency calls made in the Baratz system.

(Office Action, dated 09/09/2005, Page 10, last paragraph to Page 11, Line 2).

30 As in the rationale relied upon to rejection claims 1 and 6, the above rationale is not believed to meet the necessary threshold to establish a prima facie case. First, the above reasoning is not from either cited reference. Second, the reasoning has not indicated that it is taking official

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

notice with respect to the above facts. If official notice is being taken, Applicant seasonably traverses such an assertion and requests a reference in support.

For all of these reasons, this ground for rejection is traversed.

5 The present claims 1-14 and 16 are believed to be in allowable form. It is respectfully requested that the application be forwarded for allowance and issue.

Respectfully Submitted,

10

Bradley T. Sako 12/5/2005
Bradley T. Sako
Attorney
Reg. No. 37,923

Bradley T. Sako
WALKER & SAKO, LLP
300 South First Street
Suite 235
San Jose, CA 95113
Tel. 1-408-289-5315

15